

In the United States Court of Federal Claims

No. 06-800C

(Filed: May 14, 2007)

(Unpublished)

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*
WILLIAM C. CHEATHAM-BEY, *
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Plaintiff, *
*
v. *
*
THE UNITED STATES, *
*
Defendant. *
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William C. Cheatham-Bey, El Reno, Oklahoma, pro se.

Kenneth S. Kessler, with whom were Peter D. Keisler, Assistant Attorney General, David M. Cohen, Director, Harold D. Lester, Jr., Assistant Director, United States Department of Justice, Commercial Litigation Branch, Civil Division, Washington, D.C., for Defendant.

OPINION AND ORDER

WHEELER, Judge.

Before the Court is Defendant's January 29, 2007 Motion for Summary Dismissal of Plaintiff's *pro se* Complaint, filed pursuant to Rule 12(b)(1) and (b)(6) for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted. Following an enlargement of time, Plaintiff had until May 2, 2007 to respond to Defendant's motion. Plaintiff failed to respond, although he filed with the Court various other pleadings and motions, including a motion for summary judgment and a motion to file an amended complaint. For the reasons explained below, Defendant's motion for summary dismissal is granted. Plaintiff's motions are denied.

Jurisdiction Under the Tucker Act

Pursuant to the Tucker Act, the Court of Federal Claims has jurisdiction "to render judgment upon any claim against the United States founded either upon the Constitution, or any Act of Congress or any regulation of an executive department, or upon any express or implied contract with the United States, or for liquidated or unliquidated damages in cases not sounding in tort." 28 U.S.C. § 1491(a)(1). The Tucker Act, however, "does not create any substantive right[s] enforceable against the United States for money damages[;] . . . the Act merely confers jurisdiction upon it whenever the substantive right exists." United States v. Testan, 424 U.S. 392, 398, (1976) (citation omitted). A plaintiff coming before this Court, therefore, must also identify a separate provision of law conferring a substantive right for money damages against the United States. See, e.g. Todd v. United States, 386 F.3d 1091, 1094 (Fed. Cir. 2004).

Pro se litigants like Plaintiff are afforded greater leeway in presenting their pleadings to the Court. See Forshey v. Principi, 284 F.3d 1335, 1357-58 n.21 (Fed. Cir.2002) (discussing the less stringent standards that courts of appeals apply to *pro se* parties); see also Haines v. Kerner, 404 U.S. 519, 520-21 (1972) (explaining that *pro se* plaintiffs' pleadings are held to "less stringent standards than formal pleadings drafted by lawyers"). This broad latitude extended to *pro se* litigants does not, however, exempt them from meeting this Court's jurisdictional requirements. Henke v. United States, 60 F.3d 795, 799 (Fed. Cir.1995) (noting that the fact a litigant "acted *pro se* in the drafting of his complaint may explain its ambiguities, but it does not excuse its failures"). In this instance it is clear that Plaintiff's complaint is fatally flawed, as the forms of relief he seeks are outside this Court's jurisdiction.

Motion for Summary Dismissal

Plaintiff cites an amalgamation of statutes including all of Title 18, various sections of Title 28 and the Federal Rules of Civil and Criminal Procedure to allege numerous grievances against Executive, Legislative and Judicial branch officials, including official misconduct, deprivation of rights, and fraud. See Plaintiff's Complaint ("Compl.") at 5-8; 13-15. He also appears to challenge the constitutionality of Title 18 and at least parts of Title 28, and claims violations of his rights under the Due Process and Equal Protection Clauses of the United States Constitution. Id. Plaintiff further petitions this Court for a writ of habeas corpus challenging his incarceration in the federal correctional institution in El Reno, Oklahoma. Compl. at 1.

Having reviewed Plaintiff's Complaint against the requirements of The Tucker Act and the cases cited above, the Court is unable to discern any claims for which the Court may grant Plaintiff relief. This Court lacks jurisdiction to hear claims sounding in tort or against agents of the United States. See 28 U.S.C. § 1491(a); Brown v. United States, 105 F.3d 621; Cottrell v. United States, 42 Fed. Cl. 144, 149 (Fed. Cl. 1998) ("the court lacks jurisdiction if the essence of the claim lies in tort"). Plaintiff's constitutional claims are not money mandating, and therefore are beyond this Court's jurisdiction. See LeBlanc v. United States, 50 F.3d 1025, 1028 (Fed. Cir. 1995); Carruth v. United States, 627 F.2d 1068, 1081 (1980) (The Court of Federal Claims lacks "jurisdiction over claims based upon the Due Process and Equal Protection guarantees of the Fifth Amendment, because these constitutional provisions do not obligate the Federal Government to pay money damages.") Finally, this Court lacks authority to issue writs of habeas corpus. See 28 U.S.C. § 2241; Ledford v. United States, 297 F.3d 1378, 1380-81 (2002) ("[T]he habeas statute does not list the Court of Federal Claims among those courts empowered to grant a writ of habeas corpus"); Stephenson v. United States, 58 Fed. Cl. 186, 191-192 (2003) ("the Court of Federal Claims is not named among those courts having authority to grant writs of habeas corpus").

Conclusion

Accordingly, Defendant's Motion for Summary Dismissal of *pro se* Complaint is hereby GRANTED and Plaintiff's Complaint shall be DISMISSED with prejudice. Plaintiff's motions for summary judgment and to file an amended complaint are DENIED.

IT IS SO ORDERED.

THOMAS C. WHEELER
Judge